

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

CLAIR JOHN EASTERBROOK,)
)
Petitioner)
)
vs.) Case No. 2:16-cv-00736-KOB-HNJ
)
WARDEN CLAY,)
)
Respondent)

MEMORANDUM OPINION

On August 30, 2017, the magistrate judge entered a report recommending that the court deny the habeas petition brought pursuant to 28 U.S.C. § 2241. (Doc. 22). On September 6, 2017, petitioner filed objections to the report. (Doc. 24).

In his objections, the petitioner argues that the magistrate judge “failed to address the jail time credit as a downward departure pursuant to U.S.S.G. § 5K1.1,” and that the sentencing judge’s oral pronouncement should prevail when a conflict exists between the judge’s oral and written pronouncement of judgment. (Doc. 24). However, neither of these objections have merit. As explained by the magistrate judge in his report, the BOP correctly determined the date the petitioner’s federal sentence commenced and the amount of presentence credit to which the petitioner

was entitled. The BOP cannot give the petitioner credit towards his federal sentence that has already been credited toward his state sentence. (Doc. 24 at 9) (“Because petitioner received state credit towards his state sentence from March 16, 2009, to February 11, 2011, including the period he was in pretrial custody of the United States Marshal Service, § 3585(b) prevents crediting that time toward his federal sentence.”). Therefore, the court OVERRULES all of the petitioner’s objections.

After careful de novo review of the record in this case, including the magistrate judge’s report and recommendation and the petitioner’s objections, the court hereby ADOPTS the report of the magistrate judge and ACCEPTS his recommendation. The court finds that the petition for writ of habeas corpus is due to be denied.

The court will enter a separate order in conformity with this Memorandum Opinion.

DONE and ORDERED this 6th day of October, 2017.


KARON OWEN BOWDRE
CHIEF UNITED STATES DISTRICT JUDGE